

IN THE MATTER OF APPLICATION)
13932 FILED BY THE CITY OF ELY)
FOR THE WATERS OF HERCULES GAP)
SPRINGS LOCATED IN WHITE PINE)
COUNTY, NEVADA.)

R U L I N G

General:

Application 13932 was filed on December 5, 1951, by the City of Ely to appropriate 0.75 c.f.s. of the waters of Hercules Gap Springs for irrigation purposes. The point of diversion is described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, T. 17 N., R. 53 E., M.D.B.&M., and the place of use as 75.0 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15, T. 17 N., R. 63 E., M.D.B.&M.

On August 4, 1952, a protest was filed by Albert Romeo against the granting of Application 13932. The grounds of the protest were as follows: "That the granting of said application would interfere with protestant's vested stock watering rights on said waters and the loss of use of which said stock watering right would operate to prohibit protestant's established use of the public domain for grazing purposes around said waters."

On October 22, 1952, a field investigation was made by Elmo J. DeRicco on this source. The protestant, Albert Romeo, did not appear at the investigation to present evidence of his claim of vested right and has not as of the date of this ruling, filed a claim of vested right with this office.

On May 11, 1965, a second field investigation was made on this source. The successor in interest to the protestant, LaVerle I. Barnes, was notified by certified mail, but was not present for the investigation. No evidence was presented to support a claim of vested right as outlined in the protest.

RULING

The protest to the granting of Application 13932 is herewith overruled on the grounds that the granting of this application will not impair the value of existing rights or otherwise be detrimental to the public welfare.

Upon receipt of the statutory permit fees, a permit will be issued in the amount of 0.75 c.f.s. for irrigation purposes subject to existing rights.

Respectfully submitted,

GEORGE W. HENNEN
State Engineer

BY:


Roland D. Westergaard
Assistant State Engineer

Dated this 23 day of
July, 1965.

RDW:PGM:ns